UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Christopher Demont Owens,	)	C/A No. 8:09-1223-JFA-BHH
	)	
Petitioner,	)	
v.	)	ORDER
	)	
Warden of McCormick Correctional	)	
Institution,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Christopher Demont Owens, a state prisoner proceeding without assistance

of counsel, seeks habeas corpus relief under 28 U.S.C.§ 2254.

The Magistrate Judge assigned to this action[1] has prepared a Report and

Recommendation and opines that the respondent's motion for summary judgment should be

granted. In his objections to the Report, the petitioner contends that the Magistrate Judge

failed to address Ground 9 in his petition. Upon further review, the court discovered that the

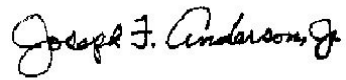respondent had not addressed Ground 9 in his Return and Memorandum either.

For this reason, the respondent's motion for summary judgment is denied, without

prejudice, and with leave to refile. The respondent is directed to file an amended Return

addressing such Ground, and petitioner shall have 15 days from the date of receipt of the

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[1] The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

amended Return to file a response thereto.   The Report and Recommendation is also vacated

so that the Magistrate Judge may address Ground 9 as well after it has been briefed by the

parties.

IT IS SO ORDERED.

March 23, 2010   Joseph F. Anderson, Jr.
Columbia, South Carolina   United States District Judge